

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION**

**Call to Order:** By **CHAIRMAN BOB DAVIES**, on February 19, 2001 at 10:30 A.M., in Room 317-B Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Bob Davies, Chairman (R)  
Sen. Jack Wells, Vice Chairman (R)  
Rep. John Brueggeman (R)  
Rep. Monica Lindeen (D)  
Sen. Bea McCarthy (D)  
Sen. Corey Stapleton (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** David Brown, Legislative Branch  
Greg DeWitt, Legislative Branch  
Mary Beth Linder, OBPP  
Cyndie Lockett, Committee Secretary  
Amy Sassano, OBPP

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: Department of Revenue-Proposal  
from UNISYS, 2/19/2001  
Executive Action: Closing Agencies

**{Tape : 1; Side : A; Approx. Time Counter : 0 - 30}**

**Greg DeWitt, Legislative Fiscal Division** let the subcommittee know which agencies of his they had not closed. He also gave the subcommittee a handout **EXHIBIT(jgh41a01)** with the global motion to close agencies.

**Motion: SEN. McCARTHY** moved to adopt the budgets as amended and close executive action for the: Department of Transportation, Department of Administration, Department of Revenue, and Secretary of State's Office.

**Sen. Stapleton** asked if that meant we have no further issues?

**Chairman Davies** said we do have one with the Department of Revenue. He asked **Sen. Stapleton** to amend the motion.

**Motion: SEN. STAPLETON** made a substitute motion to adopt the budgets as amended and close executive action for the: Department of Transportation, Department of Administration, and Secretary of State's Office.

**Vote:** The question was called for and the motion carried unanimously.

**Mr. DeWitt** pointed out that **Dave Brown, Legislative Fiscal Division** and **Governor's office** some issues to address.

**Mr. Brown** reminded the subcommittee they have not closed the Indian Affairs Program under the Governor's Office as HB 21 is pending. HB 21 is the carryover of the economic development funding for Indian Affairs. No action has been taken on this bill as it is in front of the Senate. The subcommittee may decide what they would like to do with this program.

**Amy Sassano, Office of Budget Program & Planning,** requested the subcommittee add contingent language for passage and approval of that bill. If the bill does not pass, Indian Affairs would will not be able to expend the funds.

**Motion: SEN. STAPLETON** moved DP 1, the carryover of the unspent balance of HB 670 from the 2001 biennium to the 2003 biennium, contingent on passage of HB 21.

**Vote:** The question was called for and the motion carried unanimously.

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**Motion:** **SEN. STAPLETON** moved to adopt the budget as amended and close executive action for the Governor's Office.

**Vote:** The question was called for and the motion carried unanimously.

**Kurt Alme, Director of Department of Revenue (DOR)**, discussed the proposals given to his agency from UNISYS. He passed out a handout **EXHIBIT(jgh41a02)** on the proposals. He wanted to update the subcommittee on the status of the negotiations with UNISYS. He gave a recap and said about 10 days ago UNISYS let the DOR know that on one portion of the POINTS Phase II, the portion related to property tax, UNISYS is subcontracting part of the work on the property tax module. They notified the DOR that they were suspending development. This scared DOR since they are on tight time line. DOR met with UNISYS a couple of times to see how they could get back on track. Yesterday, UNISYS faxed four options on how to get the property tax component of POINTS phase II back on track. 10 minutes ago UNISYS faxed phase what they think should be DOR's share of those additional costs. **Mr. Alme** stated that his agency has not had time to fully digest what UNISYS has proposed.

**Mr. Alme** told the subcommittee where DOR is contractually with UNISYS. They are required by contract to pursue reasonable accommodations and reasonable arrangements to problems that arise. He also said that under the contract, they will continue to do their part and see if there is some way to get the property tax component working in the time frame that meets the conceptual design specifications.

**Chairman Davies** asked if they addressed the POINTS phase I Project in any of their options. **Mr. Alme** said they did in three of the four options. UNISYS would enhance the DOR effort to get POINTS phase I stabilized before they go onto POINTS phase II.

**Mr. Alme** went over the options with the subcommittee and how it would affect the DOR. The first option is most critical, because there will be fallout from it. This is the way UNISYS can hold the deadline. For the property tax system to be of any use to the DOR in the reappraisal process they have to have the system up and functional by January 1, 2002. It can not just be implemented by that date, it has to be functional. If it is not functional it would jeopardize the reappraisal process and DOR has had this conversation with UNISYS. DOR also let UNISYS know there would be significant consequential damages with property tax revenues of about \$850 million per year. This is what is at risk if this module is not functional by January 1, 2002. Given

that, DOR is looking at the January 1, 2002 functionality date they have determined that September 5, 2001 was when the system needed to be completed so it would not impact the property reappraisals. DOR would allow delays until September 5 for implementation. This would give DOR almost three months to be sure there were no problems or bugs and it would be ready for use on January 1, 2002. Now in order to hold the September 5 deadline there is going to be significant risk as can be seen from the front two pages of the handout. The most concerning issue to DOR is that UNISYS wants to compress the development and testing schedule. DOR feels that the compression of the testing schedule was linked to the problems with POINTS phase I. The second issue is if DOR goes under this compressed schedule and hold the September 5 deadline, no more delays can occur. The third issue is that DOR would have to accept UNISYS's solution to two issues that would affect performance: 1) multi-scheme design and, 2) information design. UNISYS informed DOR that if they were going to hold this deadline then they will not be able to work with DOR when these issues come up. Another concern is that by holding the September 5 deadline, income tax, corporate license tax, and property tax will come online simultaneously. This will stretch DOR's IT resources and user resources. The last issue is cost. UNISYS expects DOR to bear \$220,000 of the cost overrun. **Mr. Alme** stated that it will cost an additional \$650,000 for UNISYS to bring in contractors to expedite their work and they expect DOR to pay for a third of that. **Mr. Alme** said with those concerns they are not even excited about option #1.

**Sen. McCarthy** asked in the compression mode that UNISYS is talking about are there any checks that can be done to make sure the implementation is going alright. **Mr. Alme** said the details of the testing is something he doesn't have a good command of but he does know that the shorter the schedule to get things accomplished the less time to evaluate. If you have time to evaluate then you have time to make modifications. **Mr. Alme** pointed out that they have to provide answers given to the options given by UNISYS on Friday and they are willing to work with UNISYS. They really have a concern with meeting a September 5 deadline. **Mr. Alme** also said they certainly do not need to get into a situation like POINTS phase I and where they're 15 months after implementation and still working out significant defects.

**Mr. Alme** said he would touch on options 2, 3, and 4. Generally option 2 has a February implementation date. They would like a five month delay to February. The five month delay obviously means that it can not be used during the reappraisal cycle, so we would lose it for this upcoming reappraisal cycle. What the DOR

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would have to do is use the current legacy systems bring POINTS property tax module up in February, and do a parallel implementation, perhaps in one county. Then once DOR thinks the system is stable they would shelve it. They would bring it back up in two years for the next reappraisal.

**Mr. Alme** then talked about option 3. Option 3 would require the same action. It is basically the same thing as option 2, except UNISYS asked if there was not a legislative solution to delay delaying the reappraisal cycle by one year. So instead of a two year reappraisal it would be three year reappraisal. In this case DOR could bring the system up in February do testing and get it operational. Then do the work to complete the cycle by 2003 instead of 2002.

**Chairman Davies** asked if the property values are rising and are not updated for an additional year then is that going to be a cost to the State, as well? He asked the department if they have any idea what that cost might be? **Mr. Alme** replied that the way that would work is DOR would end up valuing it over a three year period and the danger is when values shift you would have a comparison between appraisals done two years and three years apart. So the risk DOR would be running is having a lawsuit. In an equal protection lawsuit, taxpayers could sue if they feel they were treated unfairly because their appraisal was done later in the cycle opposed to earlier in the cycle. **Mr. Alme** stated that part of their 10 percent reduction talked about delaying reappraisals they have to make sure there is legislation that would allow that.

Option 4 is to finish the design and development phase, which they are fairly close to doing and then freeze the project. Then DOR would come back in 2004 and UNISYS hopefully would be able rehire the same people as before and try to pick up at the point they left off then develop it. Those were the four basic options. **Mr. Alme** pointed out that the last page is what they just got from UNISYS. UNISYS's offer for financial participation by the DOR is additional funds in these four solutions. Looking at the September 5 installation, UNISYS is asking for another \$218,000 and then the figures go up dramatically. UNISYS predicts significant additional costs with options 2 through 4. Right now under UNISYS's offer, they want DOR to contribute \$1.4 million to \$1.8 million in additional funds. If the subcommittee looks at the bottom of that page there is POINTS Phase I production support. Something in common with options 2 through 4 is that DOR slows down the property phase of POINTS phase II. Then UNISYS would devote three resources (which means people) back to POINTS phase I if DOR believed that allocating those

people to POINTS phase I project would enhance the DOR's ability to work through the defects in POINTS phase I. They would charge DOR to do that.

**Sen. Wells** asked if the additional money in option 1 addresses any resource support back to POINTS phase 1. **Mr. Alme** replied no. There will be no available resources. UNISYS would need everyone they could get and even additional contractor help to meet their deadline.

**Sen. McCarthy** asked on option 1 if there was any way DOR could run a parallel system. **Mr. Alme** said they are not budgeted for that but that is something they could do. **Sen. McCarthy** asked if parallel system would ensure the accuracy. **Mr. Alme** referred the question to **Denny Espeland, Department of Revenue POINTS**. **Mr. Espeland** replied that with the compressed schedule they would have a real difficult time trying to do a parallel operation. DOR has talked about doing this, but there are two concerns with a compression schedule. The first is there has to be time to identify the defects and the second is there has to be time to fix the defects. He feels there is just not enough people to do both in the compression scheduled.

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**Dan Ellison, Information Technology Process Leader**, wanted to add more on **Sen. McCarthy's** question. He wanted to offer one thought from his staff on the implementation on POINTS phase I. That is with the compressed schedule on this option 1 don't do it because that is what happened with POINTS phase I. They didn't have enough time to adequately test the system and that is why the defects continued to be logged after the system went live.

**Sen. Stapleton** asked about a month or so ago the system had 183 mission critical errors. What is it at right now? **Mr. Ellison** replied those 183 defects still stood as of February 11, 2001 and he had not rerun the program so he couldn't say what they are at right now. **Sen. Stapleton** asked if he was just talking about POINTS phase I and if **Mr. Ellison** had the resources could he predict how long it would take to clear up the 183 defects and get to zero defects. **Mr. Ellison** said he thought what they were going to have once they get to a steady state of correcting the defects and getting past the mission critical they will be in the situation where they continue to have defects logged. This could be enhancements and then some could be system errors that they didn't know about. He didn't know if they would get to a point where there was zero defects.

**Rep. Lindeen** agreed that it was nearly impossible to get to zero defects, because of different modules, law changes, or changes that are made to help users. She said that is natural for any computer system. **Mr. Ellison** went into other examples of how they could have defects.

**Sen. Stapleton** asked about mission critical defects and if Mr. Ellison had anything to do with POINTS phase II? **Mr. Ellison** answered he is involved with POINTS phase II from an interest standpoint and from a leadership team standpoint. He goes to a weekly status updates and he expresses concerns and interests in what that system will provide. He said his goal is to accomplish all the mission critical defects. He wanted to restate that they will have defects, but certainly they will focus on the mission critical defects and they will try at some point in time to have all those corrected and the system operating at design specifications.

**Mr. Alme** said DOR is paying for this system through bonding proceeds that were approved by the legislature. They are contractually obligated to secure those bonding proceeds and as contracted issues come up to work with UNISYS to try to ensure that a reasonable solution, that if one can be reached is reached. If the contract provides if funding from legislature is withdrawn and can not be obtain the DOR is required to pay UNISYS for work done to date. At this point, DOR is working under the contract and complying with the contractual obligations to seek a reasonable solution.

**Rep. Lindeen** asked that they look closely at options 2 and 3, because option 1 does not seem like the way to go and it would cost the State more money. **Rep. Lindeen** asked if the \$1.4 million cost DOR under options 2 & 3 is above and beyond what was bonded for? **Mr. Alme** replied it is actually not above what has been bonded for, but its above what DOR is currently obligated to pay to UNISYS under the current contract. **Rep. Lindeen** asked if the costs could be covered by the bonds? **Mr. Alme** said yes it could, but with that being said the dollars DOR has available in that bond are the only dollars DOR has in contingencies for maintenance or unexpected issues. There is \$1.9 million uncommitted right now and this would commit \$1.4 million of that and leave DOR with \$500,000 for three major tax types to get implemented. **Rep. Lindeen** asked if they went with option 2 or 3, how much more of the \$500,000 would DOR need. **Mr. Alme** replied he did not know and one thing he learned at looking back on POINTS phase 1 is that it is very difficult to estimate. Because they just do not know how functional the system is going to be when it comes up. He told the subcommittee he is concerned and

it is a factor they will take into account to determine a reasonable solution. If this were to come to pass and they excepted this offer from UNISYS, it would be a concern that they only have \$500,000 left out of the bonding money for those three tax systems. **Rep. Lindeen** asked if DOR chose option 2 in which production would not take place until 2004, this would give the Legislature another time to meet in 2003 and would it seem reasonable \$500,000 would be enough to get through until then. **Mr. Alme** said he did not know and he didn't know if they could answer that because he was not sure that \$1.4 Million is attributable to costs all the way through the system. **Rep. Lindeen** asked why is the DOR/State of Montana responsible for additional costs for subcontractors to help hire subcontractors UNISYS needs to do the work they bid on?. **Mr. Alme** said that is a very good question and he wanted to let the subcommittee know this is UNISYS's offer and not DOR's acceptance or counter offer. He also stated its not the DOR's position.

**Chairman Davies** said on the compressed schedule there can't be a parallel system and if DOR goes with any of the other options likewise there will be no parallel system. The other option is to update the Legacy system and he recalled it would cost \$800,000 to do that. **Mr. Alme** said that brings him to the next point and that was the DOR requesting approval for a continuing supplemental to bring the current legacy property system up to where it needs to be to get DOR through the appraisal cycle. This update for the legacy system is closer to a cost of \$218,000. **Mr. Alme** wanted to correct **Chairman Davies** by saying they could run a parallel system for options 2 and 3. **Mr. Alme** also asked for the subcommittee to look at the supplemental of \$218,000 and also approval of \$100,000 for legal fees. This would give them contracted legal services to help with negotiations services the contract with UNISYS. **Mr. Alme** stated for the record that this supplemental is not being done because they want to walk away from their contract with UNISYS. It is quite the opposite, because DOR needs to do these things to improve business planning so DOR can have the flexibility work through this contract and comply with the contractual obligations in the contract with UNISYS. If they can work out an arrangement with UNISYS where they would not need to bring the legacy property system back up to speed, then DOR it would be stripped from the DOR supplemental or if the supplemental was already granted that they could not spend it. He has already discussed this with the budget office and this would apply to legal fees also.

**Sen. McCarthy** stated that options 2 and 3 could allow POINTS to be ran parallel with the legacy system and this would also gives



the subcommittee until 2004. Would this be safer in the long run? **Mr. Alme** said yes it would because this would reduce the risk of having a system that didn't meet DOR requirements for functionality. Now this is only if DOR stayed to the full testing schedule. By bringing POINTS up parallel certainly provide DOR with additional risk coverage.

**Chairman Davies** asked if the additional costs to run a parallel system would be covered in the \$218,000? **Mr. Alme** said they didn't ask for that and if they do the systems in parallel they would have to figure out the additional costs. He felt they really need to evaluate it before he would speculate on the additional costs. **Chairman Davies** stated that time factors as to when DOR can do this reappraisal cycle is going to have an impact on how much property tax they can bring in. **Mr. Alme** stated it will effect the accuracy and integrity of their ability to get the job done. **Chairman Davies** asked if they got this system up and running by the deadline would the revenue brought in offset the supplemental being requested? **Mr. Alme** answered that if they had the system up and running by January 1<sup>st</sup>, 2001 then they would collect all the tax dollars. With people under stress and on a tighter time frame, it is more likely things are going to slip. This could impact not only having the wrong amount of tax dollars collected, but it could also impact the amount of litigation if mistakes are made. There would be costs down the road when there are appeals, which there typically are after reappraisals. There are always appeals of those values after each reappraisal cycle.

**Sen. Stapleton** said that the legislature could decided they did not want POINTS phase II because it is to risky at this point. He suggested DOR finish POINTS phase I and they gave DOR \$318,000 to run the legacy system and pay legal fees. DOR should go back to the legacy system for awhile and at some point in the future if POINTS phase II is doable then maybe they will entertain that idea. He wanted to know that would effect DOR financially, emotionally to the department staff, and legally? **Mr. Alme** said if the bonding source froze and DOR had no additional money to continue with POINTS phase II project then in contracted service would have to be paid to date which would be \$6 million. DOR would pay them and that would be the end of that. UNISYS would take their work and take their product. DOR would not have access to it unless they contracted with UNISYS at a later date. DOR then would have to handle this upgrade internally and bring the modules up one at a time or two at a time. Then they would have to ask the legislature again for funding so the could finish the work. The impact on staff would have two aspects the first would be to persevere, grind your teeth, and get through the

pain. Right now they have staff that are stressed and frustrated with the system. He feels the initial reaction will be of great relief. The long-term if implications they go down this path again there is no question that it will require more cost and more resources as far as people. If the legislature cuts the funding DOR pays of UNISYS and everyone goes their way. If DOR goes forward DOR is required by contract to work through these resolutions. DOR does not have to accept UNISYS's offers and UNISYS does not have to accept DOR's offers. There is a dispute resolution procedure built into the contract so DOR can elevate it till they get to a committee (**Mr. Alme** is apart of). At this point either party can request litigation and its non-binding litigation. If litigation doesn't work than each side retains their contractual remedies in court. The court venue is in the 1<sup>st</sup> Judicial District that encompasses Lewis and Clark County. That is where legal remedies would be pursued. DOR will not get there if they or legislatures takes them out of the contract at this point. **Sen. Stapleton** asked if UNISYS's is doing the same thing by handing DOR changes on the contract. **Mr. Alme** said these are just offers and **Sen. Stapleton** added UNISYS is altering the contract. **Mr. Alme** said UNISYS has expressed their willingness to alter the contract and they have not said what they would do if DOR refused.

**Sen. Stapleton** asked what would happen to the remaining bonding authority if the legislature put a stop to the project? Where would that money go? **Mr. Alme** said he was not sure and he would look to **Mary Beth Linder, Office of Budget Program & Planning**. **Mrs. Linder** thought the department would know more about that.

*{Tape : 2; Side : A; Approx. Time Counter : 0 - 30}*

**Chairman Davies** told everyone that they will have to break because the subcommittee members have to go to the House and Senate floors.

**Sen. McCarthy** asked the Chairman if it would be appropriate for a motion for the supplemental that DOR is asking for. **Mr. Alme** said they need this contingent supplemental at this time even if the legislature decides to let DOR negotiate this contract with UNISYS.

**Motion:** SEN. MCCARTHY moved to recommend to the House Appropriations Committee to approve a contingent continuous supplemental of \$319,100 with \$100,000 for legal fees and the remaining \$219,100 for upgrading the legacy system.

**Vote:** The question was called for and the motion carried unanimously.

**Rep. Lindeen** pointed out that they need to close the Department of Revenue.

**Motion:** **REP. LINDEEN** moved to adopt the budget as amended and close executive action for the Department of Revenue.

**Sen. Stapleton** disagreed with the motion. He doesn't want to close it.

**Sen. Wells** wanted to see the future plan so he to disagreed with closing the department.

**Mr. DeWitt** said to make the gray copy of the bill there needs to be closure and then it will go into the next phase which is the House Appropriations. It is always amendable until signed by the Governor. Its not dead its just that we need to cut it off so the Legislative Fiscal Division can make the HB 2 final.

**Vote:** The question was called for and the motion passed 4 to 2 with **SEN. STAPLETON** and **SEN. WELLS** voting no.

**ADJOURNMENT**

Adjournment: 12:00 P.M.

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REP. BOB DAVIES, Chairman

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CYNDIE LOCKETT, Secretary

BD/CL

**EXHIBIT** (jgh41aad)